

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13442, of the Watkins Partnership, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.46 to permit a new residential development comprising an apartment house of eight units and variances from the prohibition against allowing a theoretical subdivision of one lot into two lots not meeting the side yard requirements (Sub-section 3305.1) and the rear yard requirements (Sub-section 3304.1) and from the prohibition against allowing an open parking space within ten feet of a proposed apartment house (Paragraph 7205.21) in an R-5-A District at the premises 408 Cedar Street, N.W., (Square 3276, Lot 45).

HEARING DATES: March 4, and June 24, 1981

DECISION DATES: March 4, and June 24, 1981 (Bench Decisions)

FINDINGS OF FACT:

1. The subject property is located on the south side of Cedar Street, just west of its intersection with 4th Street, N.W. It is in an R-5-A zone district at premises known as 408 Cedar Street, N.W.
2. The property is L shaped as a result of the proposed theoretical lot subdivision of 406 and 408 Cedar Street. The two lots combined consist of 21,686 square feet of land area. The lot is developed with an existing three story brick apartment house, known as 406 Cedar Street, which is presently being renovated to accommodate eight units. The rest of the lot known as 408 Cedar, is used for the parking of residents' cars.
3. The applicant is seeking permission to develop the lot currently used as surface parking with an apartment house consisting of eight units. The applicant proposes a three story brick apartment house similar in street facade to the adjoining 406 Cedar Street structure.
4. The applicant plans to build two efficiency units, two one bedroom units and four two bedroom units. Each of the units will have individually controlled climate with access to private patios, roof deck or balcony, and landscaped common grounds.
5. The rear of the lot abuts a ten foot wide public alley. To the north is Cedar Street, followed by a gasoline station. To the east is 4th Street. To the west is an apartment house known as Cedar Court, located in the R-5-A zone district. To the south are the rear yards of C-2-A zoned commercial development which fronts on 4th Street.

6. The subject property was rezoned from C-2-A to R-5-A, pursuant to Zoning Commission Order No. 268, dated March 8, 1979. Since the completion of the area-wide rezoning, parts of the Takoma neighborhood, including the subject property, were established as a historic district. Under the provisions of D.C. Law 2-144, new development in the historic district is subject to design review by the Joint Committee on Landmarks to determine compatibility with the historic character of the area and adjacent buildings.

7. The applicant testified that the plans had received preliminary approval from the Joint Committee on Landmarks.

8. The proposed construction complies with the floor area ratio and lot occupancy requirements of the R-5-A zone district. The applicant is requesting variances from the provisions of Section 7615.2 allowing a subdivision of one record lot into two theoretical lots.

9. Each of the lots provides a five foot side yard. Sub-section 3305.1 of the Zoning Regulations requires a minimum side yard of eight feet. Thus a variance of three feet is required. Sub-section 3304.1 requires a minimum rear yard of twenty feet. The applicant provides a rear yard approximately 13.77 feet. Thus a variance of approximately 6.33 feet is required. Both the rear and side yard deficiencies relate to the portion of the lot currently developed. Both conditions were existing at the time of the adoption of the 1958 Zoning Regulations.

10. The applicant is only required to provide six off-street parking spaces. The plans comply with this requirement by providing twelve spaces, or one for each unit including the existing Watkins apartments. The parking spaces are reached through a public alley to the rear of the site. The plans show the retention of several existing trees plus new plantings which help screen the parking area and make the development more attractive.

11. Paragraph 7205.22 of the Zoning Regulations prohibits the location of any portion of an open parking space within ten feet of any wall of a multiple dwelling if such wall contains openings designed to provide light or ventilation for such dwellings. The two parking spaces that are within a ten foot radius of the building are located at the southern building wall, and are depicted as spaces one and ten on the ground level elevation contains no openings for light and ventilation to living areas, only two garage doors. There is a first floor balcony, with sliding glass doors located, approximately nine feet above grade which looks out over the parking lot. The variance from the provisions which prohibits the location of an open parking space within ten feet of a proposed apartment house is directly associated with the new building.

12. The proposed new building is in scale with the adjacent Watkins apartments, but designed so as to leave the Watkins building prominent and reflecting the latter's historic character. The new building has also been set back from the property line so as to maintain a uniform setback with both the Watkins and the apartment house abutting the new development on the west.

13. Paragraph 3105.42 requires that the BZA approve all new residential development in the R-5-A zone, except for one family detached and semi-detached dwellings. The Regulations call for review by the D.C. Board of Education, D.C. Department of Transportation, Department of Housing and Community Development and the Office of Planning and Development.

14. The Department of Transportation by report dated February 26, 1981, found that the site is one block away from the Takoma Park Metrorail Station, as well as metrobus service, that each unit will be served by one off-street parking space, and that no measurable adverse traffic impact will be generated by the proposed development. The Board so finds.

15. The D.C. Board of Education, by report dated February 23, 1981, found that the area is served by an Elementary, Junior High and High School, and that the school population produced by the six units will have an insignificant impact on any of the schools. The Board agrees.

16. The Department of Housing and Community Development did not report on this application.

17. The Office of Planning and Development, by report dated February 13, 1981 and testimony at the time of public hearing, recommended approval of the application. The OPD found that the project is consistent with land use policies for the area, and that the practical difficulties relating to the shape of the lot and its development prior to the adoption of the Zoning Regulations in 1958 prohibit the owner from developing his lot in accordance with the Zoning Regulations. The Board so finds.

18. Neighbors, Inc. by letter dated February 13, 1981, supported the requested variances and the proposed development, provided that the applicant offer adequate lighting between the existing Watkins and the proposed new structure.

19. There was no report of Advisory Neighborhood Commission - 4B on this application.

20. There was no opposition to the granting of this application.

21. The application as advertised and as heard at the public hearing of March 4, 1981, proposed to renovate an apartment house of six units consisting of two three-bedrooms units and four two-bedroom units. The Board approved the application by a Bench Decision on March 4, 1981.

22. On April 21, 1981 the applicant requested the Board to approve a modification of the plans previously approved by the Board on March 4, 1981, to allow eight units instead of six. The applicant proposed to convert the two three bedroom units facing Cedar Street into four units. At its public meeting of May 6, 1981, the Board granted the applicant a further hearing on the application limited to the request for modification of the plans marked as Exhibit 20 of the record.

23. At the Further Hearing on June 24, 1981, the applicant testified that he was having difficulty attracting a lender due to the large three bedroom units. The lenders, based on their appraisal of the market in Takoma Park, were reluctant to make the loan. The applicant further testified that its response in marketing the adjacent Watkins Condominium next door suggested that the strongest demand was from elderly persons and childless couples who were seeking smaller apartments. At current interest rates, the applicant was unable to qualify people for anything larger.

24. The applicant testified that the building coverage, height, FAR and other zoning calculations would remain the same. The Office of Planning and Development by report dated June 10, 1981 reported that the OPD had reviewed the applicant's revised plans and found that the modification did not effect the conclusions contained in its prior report of February 13, 1981. The report further noted that the revised plans did not alter the originally approved parking scheme which exceeds the number of spaces required for eight units. The Board so finds.

25. Neighbors, Inc., by letter of June 17, 1981, recommended that the modification be approved. The letter stated that Neighbors, Inc. did not feel that the increase in the number of units would be detrimental to the neighborhood so long as no other changes in the character or design of the building are included. They received this assurance from the applicant.

26. There was no opposition to the modification of plans.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception and three variances. In order to be granted the requested exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 3105.42 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. There are adequate public facilities to serve the proposed apartments. The site plan and layout of the development is appropriate. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Maps, and will not tend to affect adversely the use of neighboring property in accordance with said Regulations and Maps.

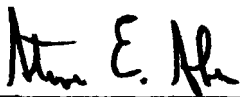
Based on the foregoing findings of fact and the evidence of record, the Board concludes that the requested variances are area variances, the granting of which requires the showing of a practical difficulty which is inherent in the property which prohibits reasonable development of the property in accordance with strict application of the Zoning Regulations. The Board concludes that the shape of the lot and its development prior to adoption of the 1958 Zoning Regulations creates such a difficulty. The Board further concludes that the deficiencies relating to the side and rear yards are already existing conditions, and that the proposed construction would not increase these deficiencies. The Board further concludes that the parking scheme is desirable in that it allows the applicant to preserve a large and uniquely shaped tree at the southwestern corner of the site. The applicant's proposed development is in scale with the adjacent Watkins apartments. The development is consistent with land use policies for the area, and can be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. Accordingly, it is ORDERED that this application is hereby GRANTED, SUBJECT to the development being constructed in accordance with the REVISED PLANS marked as Exhibit 29 of the record, and to the applicant's providing lighting fixtures in the area between the existing and proposed buildings, as described on Exhibit No. 27 of the record.

VOTE: On the original application: 4-0 (Walter B. Lewis, William F. McIntosh, Douglas J. Patton and Connie Fortune to GRANT; Charles R. Norris not present, not voting).

VOTE: On the modified plans: 4-0 (Charles R. Norris, William F. McIntosh, Douglas J. Patton and Connie Fortune to GRANT; Lindsley Williams ABSTAINED).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

16 JUL 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13442, of the Watkins Partnership, as amended, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 3105.46 to permit a new residential development comprising an apartment house of eight units and variances from the prohibition against allowing a theoretical subdivision of one lot into two lots not meeting the side yard requirements (Sub-section 3305.1) and the rear yard requirements (Sub-section 3304.1) and from the prohibition against allowing an open parking space within ten feet of a proposed apartment house (Paragraph 7205.21) in an R-5-A District at the premises 408 Cedar Street, N.W., (Square 3276, Lot 45).

HEARING DATES: March 4, and June 24, 1981

DECISION DATES: March 4, and June 24, 1981 (Bench Decisions)

DISPOSITION: The Board GRANTED the application with CONDITIONS by a vote of 4-0 (Walter B. Lewis, William F. McIntosh, Douglas J. Patton and Connie Fortune to GRANT; Charles R. Norris not present, not voting) on the original application and by a vote of 4-0 (Charles R. Norris, William F. McIntosh, Douglas J. Patton and Connie Fortune to GRANT; Lindsley Williams ABSTAINED) on the amended application.

FINAL DATE OF ORDER: July 16, 1981

FINDINGS OF FACT:

1. The subject application was granted by the Board subject to the development being constructed in accordance with the revised plans marked as Exhibit 29 of the record, and to the applicant's providing lighting fixtures in the area between the existing and proposed buildings, as described on Exhibit No. 27 of the record.

2. By letter dated June 2, 1982, the applicant requested the Board to clarify the conditions of its approval of the application. The need for the requested clarification was based on the condition requiring development to be in accordance with Exhibit No. 29 of the record and a change in the parking plan which increased the number of spaces from twelve to fourteen. The applicant submitted a copy of the plans on file with the Zoning Review

Branch on July 2, 1982. These plans are marked as Exhibit No. 38 of the record.

3. At the public hearing of March 4, 1981, the applicant submitted a site plan, Exhibit No. 20 of the record, which reflected changes in the original plans related to the set back and facade of the building to meet the objections of the Joint Committee on Landmarks and the Takoma Park community. This site plan was approved by the Board.

4. A further hearing was held on June 24, 1981 to consider increasing the number of units from six to eight. The architect, in showing the increased number of units, used the original site plan instead of Exhibit No. 20. Therefore, Exhibit No. 29 of the record reflects the modifications necessary to increase the number of units but does not incorporate the changes in setback and facade approved by the Board at the March 4, 1981, public hearing.

5. The Board considered the applicant's request at its public meeting of July 7, 1982. Upon reviewing the plans marked as Exhibit No. 38 of the record, the Board noted that only twelve parking spaces were delineated. The Board therefore deferred a decision on the applicant's request until its public meeting of August 4, 1982 to allow the submission of an accurate parking layout.

6. By letter dated July 8, 1982, the applicant submitted a copy of the parking plan for the subject site. The applicant stated in the letter that the request of June 2, 1982 was in error in that twelve rather than fourteen parking spaces are provided. The applicant stated further that the proposed parking layout eliminates the need for any substandard size parking spaces and allows the retention of a large tree to the rear of the lot.

7. The Board finds that the facts relied upon in granting the relief sought in the application have not been affected by the change in the parking layout submitted by the applicant. The Board further notes that the plans marked as Exhibit No. 38 of the record incorporate the plans approved by the Board on March 4, 1981 and the modification of those plans to increase the number of units from six to eight approved by the Board on June 24, 1981.

CONCLUSIONS OF LAW AND OPINION:

The Board concludes that the proposed modification in the parking layout on the subject site is cosmetic in nature and is in accord with the number of parking spaces approved by the Board in its order of July 16, 1981. The Board further concludes that the plans marked as Exhibit No. 38 of

the record are in accord with the relief granted during the two public hearings by the Board.

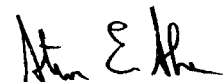
It is therefore ORDERED that the proposed modification and Consolidation of plans is APPROVED and that the plans marked as Exhibit No. 38 of the record are approved and shall be substituted for those approved by the Board as Exhibit No. 29. In all other respects, the Order of the Board dated July 16, 1982 shall remain in full force and effect.

DECISION DATE: August 4, 1982

VOTE: 5-0 (Walter B. Lewis, Connie Fortune, Charles R. Norris, William F. McIntosh and Douglas J. Patton to APPROVE).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: AUG 31 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."